

Contract No. 0-LA-17-L0250

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Grand Coulee Project Office
Columbia Basin Project, Washington

LEASE RENEWAL OF GAME FISH HATCHERY

AGREEMENT, Made this 13th day of August, 1940, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), the Act of Congress of October 9, 1940 (54 Stat. 1085), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Federal Reclamation Laws, between the UNITED STATES OF AMERICA, hereinafter called the United States, represented by the officer executing this agreement, hereinafter called the Contracting Officer and the STATE OF WASHINGTON, DEPARTMENT OF WILDLIFE, hereinafter referred to as the Lessee, represented by the Director of the Department of Wildlife acting pursuant to Chapter 63, Page 177, of the Washington Session Laws of 1939, entitled "An Act relating to the state government and authorizing the Department of Fisheries and the Department of Game to each establish and operate certain funds as therein provided, and declaring an emergency", and R.C.W. 77.12.430-.440;

WITNESSETH:

2. WHEREAS, the parties hereto entered into that certain contract dated April 17, 1941 (Symbol 1 36-R-2359), which said contract provided for the acquisition of lands, rights-of-way, and water rights, and the construction thereon by the United States, of a game hatchery building and appurtenant facilities and for the leasing of the same to the Lessee for a term of fifty (50) years, to offset the damages done to the game fish industry of the State of Washington, which might otherwise result as incidental to the construction and operation of the Grand Coulee; and,

3. WHEREAS, the said lands, rights-of-way, and water rights have been acquired and said fish hatchery building and appurtenant facilities have been constructed by the United States as provided for in said contract; and,

4. WHEREAS, the parties hereto, on January 19, 1942, entered into a lease of a Game Fish Hatchery for a term of fifty (50) year, which will terminate on January 1, 1992, unless renewed; and,

5. WHEREAS, the parties hereto wish to continue the present arrangement beyond 1992 by entering into an additional 50-year lease prior to 1992 so that the Lessee can replace or repair the buildings and appurtenances.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations hereinafter stated, the parties hereto do mutually agree as follows:

6. The United States hereby leases to the Lessee for use as a game fish hatchery, the following described premises and all of the right-of-way and water rights appurtenant thereto:

A tract of land containing 46.9 acres, more or less, being all of the West half of the Southeast quarter of the Northeast quarter (W1/2SE1/4NE1/4) and portions of the Southeast quarter of the Northwest quarter of the Northeast quarter (SE1/4NW1/4NE1/4), the Southwest quarter of the Northeast quarter of the Northeast quarter (SW1/4NE1/4NE1/4), the Northeast quarter of the Southeast quarter of the Northeast quarter (NE1/4SE1/4NE1/4), the East half of the Southwest quarter of the Northeast quarter (E1/2SW1/4NE1/4), and Lots 10 and 11, all in Section 24, T28N, R39E.W.M., Stevens County, Washington, more particularly described as follows:

Beginning at the northeast corner of the West half of the Southeast quarter of the Northeast quarter (W1/2SE1/4NE1/4) of said Section 24, which corner bears S89°26'00"W 670.4 feet and S00°50'00"E 1314.7 feet from the northeast section corner of said Section 24; running thence S00°56'30"E 45.0 feet along the east line of the West half of the Southeast quarter of the Northeast quarter (W1/2SE1/4NE1/4) of said Section 24; thence N87°57'00"E 341.9 feet; thence S57°13'00"E 357.3 feet; thence S00°11'00"W 201.8 feet; thence S83°26'30"W 638.3 feet to a point on the east line of the West half of the Southeast quarter of the Northeast quarter (W1/2SE1/4NE1/4) of said Section 24; thence S00°56'30"E 918.3 feet along the east line of the West half of the Southeast quarter of the Northeast quarter (W1/2SE1/4NE1/4) and the east line of lot 10 of said Section 24; thence S89°03'30"W 1292.7 feet; thence N00°50'00"W 1000 feet; thence N72°00'00"E 375 feet; thence N20°30'00"E 332.6 feet to a point on the north line of the East half of the Southwest quarter of the Northeast quarter (E1/2SW1/4NE1/4) of said Section 24; thence N38°04'30"W 194.1 feet; thence N47°47'00"E 308 feet; thence N28°47'30"E 113.9 feet; thence S78°54'30"E 125 feet; thence N22°01'30"E 50 feet; thence S78°54'30"E 50.8 feet; thence S22°01'30"W 384.9 feet; thence S00°02'30"E 111.8 feet, to a point on the north line of the West half of the Southeast quarter of the Northeast quarter (W1/2SE1/4NE1/4) of said Section 24; thence N89°07'30"E 600 feet along the north line of the West half of the Southeast quarter of the Northeast quarter (W1/2SE1/4NE1/4) of said Section 24 to the point of beginning; EXCEPTING therefrom the right, title, and interest of the County of Stevens in and to the existing County Road; SUBJECT, however, to the following reservations to W.H. Wilson and Katheryn Wilson, their heirs, executors, administrators, and assigns:

(a) a perpetual easement to operate and maintain a hydraulic ram and pipeline in their present location, on and across the above described lands, and;

CORRECT AS TO ENGINEERING DATA

William L. Butt 10/14/89

BUREAU OF RECLAMATION

(b) the right to pump water from a spring located on the above described lands at a rate not to exceed 15 gallon per minute, and;

(c) a perpetual easement for the use and maintenance of a pass or crossing for stock to occupy a strip of land 30 feet wide parallel to and adjoining the southerly boundary of the Stevens County Road, as shown on the plat attached to the Declaration of Taking, filed in the United States District Court for the Eastern District of Washington, Northern Division, in that certain matter entitled "United States of America vs. Kathryn Wilson, et al No. 146" at law.

7. Said lease shall begin on September 25, 1970 and terminate on September 25, 2040 provided that the said lease may be sooner terminated by the United States, upon notice by the United States duly served upon the Lessee, after the determination by the Contracting Officer that the said fish hatchery is not being properly operated and maintained by the Lessee, or no longer being used by the Lessee as a game fish hatchery; and further provided, that the said lease may be terminated by the Lessee at any time by serving notice of cancellation of said lease,, and in such event said lease shall be deemed to be terminated at the end of one hundred twenty (120) days after the service of said notice of cancellation.

8. The Lessee shall not let or sublet the leased premises, in whole or in part, or assign this lease without the consent in writing of the Contracting Officer, and any attempt to transfer or sublet the leased premises without such consent shall be absolutely void and shall operate to terminate this lease without further notice to the Lessee. At the termination of this lease howsoever the Lessee will deliver the said premises in as good order as they now are or may be put to by the Lessee, in accordance with the terms of Article 9 hereof, ordinary wear excepted.

9. The Lessee may improve, replace, or repair the fish hatchery building and appurtenant facilities. The Lessee shall obtain any and all permits required by local, State, and Federal laws and regulations during rehabilitation and/or remodeling of the hatchery facilities. Any additions, accessions, or alterations to the improvements and appurtenances on said leased premises shall become and remain thereafter the property of the United States, and shall not be removed by the Lessee at the termination of this lease howsoever without having first secured the written consent to such removal from the Contracting Officer.

10. It is understood and agreed that the leasing, by the United States of said fish hatchery buildings and appurtenances facilities to the State of Washington, as Lessee, is a fair offset for damage which might otherwise result to the game fish industry of the State of Washington and a fair substitute on the part of the United States for the fish ladder which would be provided if the Grand Coulee Dam were not too high to permit a feasible fish ladder, and a fair substitute and equivalent on the part of the United States for the construction of a fish hatchery at any other location or the doing of any other thing which could practicably be done as

an offset for any damage which might otherwise result the game fish industry of the State of Washington, and by reason thereof the United States shall be and is, by the Lessee, hereby released from all claims or demands of any nature or sort whatsoever on account of any interference which may result to the game fish industry of the State of Washington from the construction, operation, and maintenance of the Grand Coulee Dam.

11. There are excepted and reserved to the United States and its assigns, from the lease of the premises described in Article 6, a right-of-way for ditches and canals constructed or to be constructed by the authority of the United States, this reservation being of the same character and scope as that created with respect to certain public lands by the Act of August 30, 1890 (26 Stat. 371), as it has been or may hereafter be amended and the right, at its own expense, to cross the said lands and rights-of-way with canals or water conduits of any kind or with roadways, transmission and distribution lines and any power and irrigation works, or works for development of power which may in the future be built by the United States along or across said lands.

12. The notices provided for by this lease to be served upon the Lessee shall be served in person upon the Director of Wildlife of the State of Washington or the legal successor or by mailing the same to the Director of Wildlife of the State of Washington. The notices provided to be served upon the United States shall be served in person on the Contracting Officer or by mailing same to the United States Bureau of Reclamation at Boise, Idaho.

13. The Lessee hereby agrees:

a. To comply with Title VI, Section 601, of the Civil Rights Act of July 2, 1964 (78 Stat. 241), which provides that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance," and to be bound by the regulations of the Department of the Interior for the effectuation thereof, as set forth in 43 CFR 17.

b. To obligate its subcontractors, subgrantees, transferees, successors in interest, or any other participants receiving Federal financial assistance hereunder to comply with the requirements of this provision.

14. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

15. This lease shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto, subject, however, to the restrictions on assignments or subletting provided in Article 8 hereof.

16. The Lessee further agrees to comply with the conditions attached hereto as Exhibit "A", identified as Cultural Resource Site Protection and Management, hereby made a part hereof.
IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

THE UNITED STATES OF AMERICA

By *Pamela D. Roberts*
ACTING Regional Director,
Pacific Northwest Region
Bureau of Reclamation
Federal Building & U.S. Courthouse
Box 043 - 550 West Fort Street
Boise, Idaho 83724

STATE OF WASHINGTON

By *Richard S. Goffeney for*
Director of Wildlife *Jenene Janson*

(SEAL)

Approved as to form this

25th day of September, 1990

Will C. Furr
Assistant Attorney General
of the State of Washington

STATE OF Washington)
:SS
County of Thurston)

On this 27th day of November, 1987, personally
appeared before me Emmett B. Rasmussen, to me known to be the
Director of Wildlife of the STATE OF WASHINGTON that executed the within
and foregoing instrument and acknowledged said instrument to be the free
and voluntary act and deed of said State of Washington for the uses and
purposes therein mentioned, and on oath stated that he was authorized to
execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year first above written.

David L. Garbille
Notary Public in and for the
State of: Washington
Residing at: Sumner
My Commission Expires: 11-14-93

(SEAL)

STATE OF Idaho)
:SS
County of Ada)

On this 13th day of August, 1990, personally
appeared before me Paul D. Racheff, to me known to be the
official of the UNITED STATES OF AMERICA that executed the within and
foregoing instrument and acknowledged said instrument to be the free and
voluntary act and deed of said United States for the uses and purposes
therein mentioned, and on oath stated that he was authorized to execute
said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year first above written.

Paul D. Racheff
Notary Public in and for the
State of: Idaho
Residing at: Boise
My Commission Expires: 4-1-92

(SEAL)

EXHIBIT A

CULTURAL RESOURCE SITE PROTECTION AND MANAGEMENT REQUIREMENTS

In July 1990, a Class III cultural resource investigation was conducted of the hatchery property, and five archeological sites were recorded (Luttrell and Galm 1990). Insufficient information is available to determine if these sites are eligible to the National Register of Historic Places (the Register). The hatchery, including all buildings, structures, and associated operating equipment, has been determined eligible to the Register by the United States, Bureau of Reclamation (Reclamation) and the Washington State Historic Preservation Office (SHPO).

The Archeological Resources Protection Act, 36 CFR 800, and other laws and regulations require that cultural resources be identified, evaluated, and protected on Federal lands. If a significant resource cannot be protected, then impact mitigation actions are required. Decisions about site significance and the protection or mitigation processes are made by the responsible agency (Reclamation), the SHPO, and the Advisory Council on Historic Preservation (the Council), with input from other interested parties. The consultation process is defined in 36 CFR 800.

Reclamation Instructions 376.11.2(2) require that, when administrative responsibility for Reclamation lands is assigned to a non-Federal entity, the lease agreement delineates requirements to protect cultural resources, as well as procedures to comply with Federal cultural resource laws when undertaking program activities. Therefore, Reclamation places the following conditions, and requires the following procedures be observed by the State of Washington, Department of Wildlife (the Department) at the Ford Fish Hatchery:

1. Whenever possible, select locations for project features or activities that avoid the archeological sites. The area containing the archeological sites, with a reasonable buffer strip, is identified as the "Avoidance Area" on the map attached here to as Exhibit B. NO GROUND DISTURBING ACTIONS SHALL OCCUR WITHIN THE DEFINED AVOIDANCE AREA WITHOUT PRIOR CONSULTATION WITH RECLAMATION'S REGIONAL ARCHEOLOGIST AND THE SHPO, as defined below. Actions may proceed with no further cultural resource investigation or consultations in areas outside of the Avoidance Area, with the exception of alterations to the hatchery facilities, as defined below in Condition 3.

Project activities are defined as any activity which alters the ground surface. This includes grading surfaces for roads, operating heavy equipment off of existing roads, burying the surface under spoil, logging, uprooting shrubs, etc.

Federal and State law requires that the locations of archeological sites be kept confidential. Therefore, the Department shall not release locational information disclosed on Exhibit B except to Department employees, and then only on a "need to know" basis.

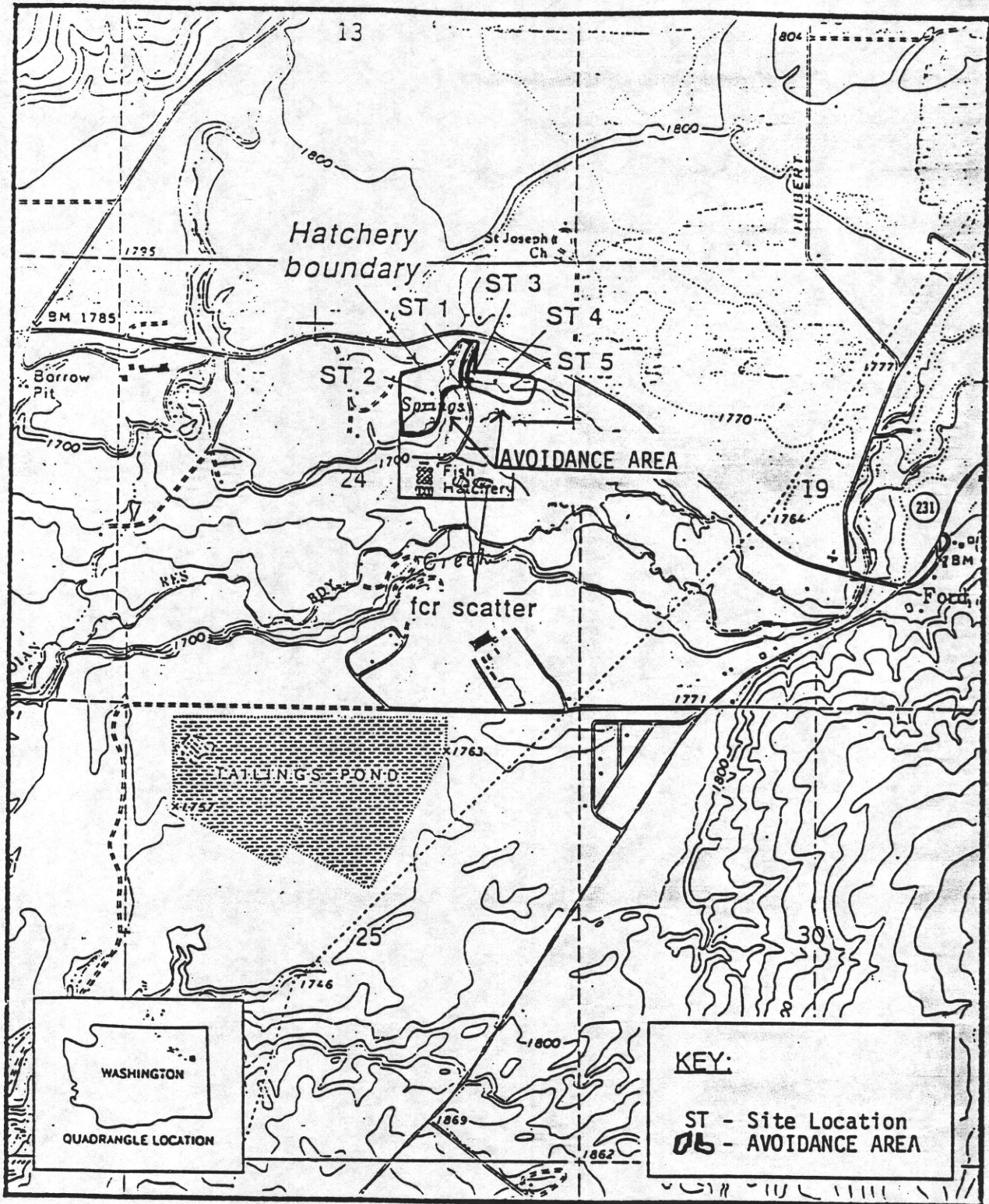
2. If a project activity must occur within the Avoidance Area, the Department shall first notify Reclamation, who must then consult with the SHPO and the Council. No project action shall begin within the Avoidance Area until written notice has been provided by Reclamation to the Department that a cultural resource clearance has been obtained.

Since the scientific significance of the five recorded archeological sites has not yet been determined, test excavations would have to be conducted at the affected site(s) before consultations could begin. If the consulting parties agreed that the site(s) was/were eligible to the Register, then archeological excavations would likely be necessary. It would take a minimum of 1 year to complete test excavations, consultations, and data recovery excavations. Therefore, if the Department must perform any ground-disturbing activity within the Avoidance Area, they must notify Reclamation of their intent at least 1 year in advance of the project starting date.

3. The hatchery has been determined eligible to the Register. With the exception of routine activities defined below, if the Department plans to alter buildings, facilities, or operational equipment that were part of the original fabric of the hatchery, or to construct new buildings or facilities near the existing facilities, the Department shall first notify Reclamation, who will initiate the required consultations. The Department must notify Reclamation of the intent to alter or add facilities no less than 6 months in advance of the project start date. If the proposed alterations or additions are determined to constitute an adverse effect upon the historic integrity of the hatchery, then Reclamation will require that Historic American Buildings Survey (HABS) documentation be completed. Once HABS has been completed, the Department will have fulfilled their documentation requirements for the hatchery, and need not inform Reclamation of further proposed alterations to hatchery.

Reclamation need not be notified of routine maintenance activities, such as painting structures, roofing with the same materials, resurfacing existing roads, small repairs to structures using matching materials, or repairing electrical or plumbing where no alterations are necessary to structural or decorative elements of the building.

EXHIBIT B



Township 28 N., Range 39 E., W.M.
Stevens County, Washington